IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2292 OF 2005

Shrikant Vinayak Deo .. Petitioner.
Vs.
Shree Sadguru Jangli Maharaj
Sah. Bank Ltd. & Ors. .. Respondents.

Mr.P.S.Dani for the petitioner.

CORAM : D.B.BHOSALE, J.

DATED : 2ND MAY, 2005

P.C.:

. Heard Mr.Dani, learned counsel for the petitioner.

2. By this petition, the petitioner has challenged the order passed by the Co-operative Court returning the dispute filed by him to file it before the appropriate forum holding that the Co-operative Court has no jurisdiction to try and entertain the present dispute under section 91 of the Maharashtra Co-operative Societies Act. The dispute was filed by the petitioner for following reliefs:

> "I. It may kindly be declared that the disputant has not obtained the alleged loan of Rs.4.7/4.90 lakhs from the opponent bank and not liable to pay the same to the

opponent bank.

II. It may kindly be declared that the alleged loan document i.e. Promissory Note, Agreement, Mortgage Deed etc. are without any consideration and not binding upon the disputant being illegal, null and void.

III. It may kindly be declared that no amount can be recovered from the disputant on the basis of the above alleged documents and alleged a/c extract of the said loan.

IV. The true and proper accounts of the alleged loan transactions of the diputant may kindly be given.

V. The opponent may kindly be restrained from claiming, demanding and recovering any amount from the disputant until final and conclusive disposal of the present dispute.

VI. Cost of the present dispute may kindly be awarded to the Disputant from the opponent.

VII. Any other just and equitable relief's not specifically prayed for also be awarded in favour of the Disputant in the interest of justice."

3. The case set up by the petitioner was that his brother had obtained loan from the respondent-bank in which his name was fraudulently shown as borrower. He further contends that his signatures were obtained on the document by force and fraud. There is no dispute that the bank had initiated recovery proceedings against the petitioner and his brother in which recovery certificate has been issued pending this dispute. Keeping that in view and considering the nature of relief's claimed

by the petitioner, in my opinion, there is no infirmity in the order passed by the Co-operative Court. It is always open for the petitioner to challenge the order passed in recovery proceedings under section 101 of the Maharashtra Co-operative Societies Act by way of revision before the appropriate forum. Mr.Dani, learned counsel for the petitioner at this stage submits that the petitioner may be given liberty to challenge the recovery certificate before appropriate forum in revision and he may be permitted to raise all contentions advanced in the present proceedings in revision. After having considered the overall facts and circumstances of the case I am satisfied that the following order shall meet the ends of justice:

(a) The writ petition is dismissed.

(b) It is open for the petitioner to challenge the recovery certificate in revision. All contentions are left open. If such revision is filed by the petitioner same may be considered in accordance with law. The writ petition is, accordingly, disposed of.

(D.B.Bhosale, J.)